
TITLE 326 AIR POLLUTION CONTROL BOARD

Final Rule

LSA Document #09-362(F)

DIGEST

Amends [326 IAC 4-1-3](#) and [326 IAC 4-1-4](#) concerning open burning. Effective 30 days after filing with the Publisher.

HISTORY

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Date of Second Hearing: August 3, 2011.

[326 IAC 4-1-3](#); [326 IAC 4-1-4](#)

SECTION 1. [326 IAC 4-1-3](#) IS AMENDED TO READ AS FOLLOWS:

[326 IAC 4-1-3](#) Exemptions

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#)

Affected: [IC 13-12](#); [IC 13-17-9](#)

Sec. 3. (a) [IC 13-17-9](#) exempts certain types of open burning for maintenance purposes listed as follows:

(1) A person may open burn the following:

(A) Vegetation from any of the following:

- (i) A farm.
- (ii) An orchard.
- (iii) A nursery.
- (iv) A tree farm.
- (v) A cemetery.
- (vi) A drainage ditch.
- (vii) Agricultural land, if the open burn occurs in an unincorporated area.

(B) Wood products derived from the following:

- (i) Pruning or clearing a roadside by a county highway department.
- (ii) The initial clearing of a public utility right-of-way so long as the open burn occurs in an unincorporated area.

(C) Undesirable:

- (i) wood structures on real property; or
 - (ii) wood remnants of the demolition of a predominantly wooden structure originally located on real property;
- located in an unincorporated area.

(D) Clean petroleum products for the purpose of maintaining or repairing railroad tracks, including the railroad rights-of-way, but not including railroad ties.

(2) All open burning that is allowed under this subsection must comply with the following conditions:

- (A) A person who open burns shall extinguish the fire if the fire creates a nuisance or fire hazard.
- (B) Burning may not be conducted during unfavorable meteorological conditions such as any of the following:
 - (i) High winds.
 - (ii) Temperature inversions.

- (iii) Air stagnation.
- (C) All fires must be attended at all times during burning until completely extinguished.
- (D) All asbestos-containing materials must be removed before the burning of a structure.
- (E) Asbestos containing materials may not be burned.

(b) The types of fires identified in subsection (c) are allowed under this rule. Unless specified otherwise, the following conditions apply to any fire allowed by this subsection:

- (1) Fires must be attended at all times and until completely extinguished.
- (2) ~~If at any time~~ A fire **shall be extinguished if at any time it** creates a:
 - (A) pollution problem;
 - (B) threat to public health;
 - (C) nuisance; or
 - (D) fire hazard.~~it shall be extinguished.~~
- (3) No burning shall be conducted during unfavorable meteorological conditions such as any of the following:
 - (A) High winds.
 - (B) Temperature inversions.
 - (C) Air stagnation.
 - (D) When a pollution alert or ~~ozone~~ **air quality** action day has been declared.
- (4) All burning shall comply with other federal, state, and local laws, rules, and ordinances.
- (5) Adequate firefighting equipment shall be on-site for extinguishing purposes during burning times.
- (6) Burning shall be conducted during daylight hours only, and all fires shall be extinguished before sunset.

(c) The following types of fires are allowed:

(1) Recreational or ceremonial fires, such as fires for scouting activities, and fires used for cooking purposes, such as camp fires, subject to the conditions in subsection (b)(1) through (b)(5) and the following conditions:

(A) **Only the following may be burned:**

- (i) Clean wood products.
- (ii) Paper.
- (iii) Charcoal. ~~or~~
- (iv) Clean petroleum products.

~~may be burned:~~

(B) **Any person conducting recreational or ceremonial fires shall notify** the local fire department and health department ~~must be notified~~ at least twenty-four (24) hours ~~before~~ **prior to** any burning ~~where if~~ the size of the pile being burned is more than one hundred twenty-five (125) cubic feet **and include the date, time, and location of the burning.**

(C) Fires shall:

- (i) not be ignited more than two (2) hours before the recreational activity is to take place; and
- (ii) be extinguished upon conclusion of the activity.

(D) The pile to be burned shall be less than or equal to one thousand (1,000) cubic feet and only one (1) pile may be burned at a time.

(E) The fires shall not be used for disposal purposes.

(F) Fires shall not ~~take place~~ **be located** within five hundred (500) feet of any fuel storage area or pipeline.

(2) Private residential burning, where the building contains four (4) or fewer dwelling units. Burning is prohibited in apartment and condominium complexes and mobile home parks. Beginning June 23, 1995, residential open burning is prohibited in the counties listed in section 4.1(c) of this rule. Burning shall be subject to the conditions in subsection (b) and the following conditions:

(A) Burning shall be in a noncombustible container that:

- (i) is sufficiently vented to induce adequate primary combustion; and
- (ii) has enclosed sides and a bottom.

(B) Only clean wood products and paper may be burned.

(3) Waste oil burning where waste oil originates from spillage during testing of an oil well and has been collected in a properly constructed and located burn off pit as prescribed in [312 IAC 16-5-11](#) in the natural resources commission rules. Burning shall be subject to the conditions in subsection (b) and the following conditions:

(A) Each oil pit may be burned once every two (2) months.

(B) The fire must be extinguished within thirty (30) minutes of ignition.

(4) Department of natural resources (DNR) burning, to facilitate prescribed burning on DNR controlled properties for wildlife habitat maintenance, forestry purposes, natural area management, and firefighting or prevention; **burning by municipalities, county governments, to facilitate prescribed burning for wildlife**

habitat maintenance, forestry purposes, natural area management, and firefighting or prevention;

United States Department of the Interior burning, to facilitate a National Park Service Fire Management Plan for the Indiana Dunes National Lakeshore, for example; and United States Department of Agriculture, Forest Service burning, to facilitate wildlife habitat maintenance, forestry purposes, natural area management, ecosystem management, and firefighting or prevention. Burning shall be subject to conditions in subsection (b)(1) through (b)(5) and the following conditions:

(A) If The fire **shall be extinguished if it** creates a:

- (i) nuisance;
- (ii) fire hazard; or
- (iii) pollution problem.

~~it shall be extinguished.~~

(B) No burning shall be conducted during unfavorable meteorological conditions, such as any of the following:

- (i) High winds.
- (ii) Temperature inversions.
- (iii) Air stagnation.
- (iv) When a pollution alert or ozone action day has been declared.

(C) Only vegetation and clean petroleum products may be burned.

Burning by the U.S. Forest Service for firefighting or prevention is not subject to the conditions in subsection (b) or this subdivision.

(5) Burning of marijuana by federal, state, and local law enforcement offices. Burning shall be subject to the conditions in subsection (b) and only clean petroleum products shall be used for ignition purposes.

(6) Burning, for the purpose of heating, using clean wood products or paper in a noncombustible container that is sufficiently vented to induce adequate primary combustion, and has enclosed sides and a bottom. Burning shall be subject to the conditions in subsection (b)(1) through (b)(5) and the following conditions:

(A) Burning shall only occur between October 1 and May 15.

(B) Burning shall not be conducted for the purpose of disposal.

(7) Burning of vegetation by fire departments and firefighters to create fire breaks for purposes of extinguishing an existing fire. Such burning is not subject to the conditions in subsection (b).

(8) Burning of clean petroleum products, natural gas, methane, or propane for fire extinguisher training, **including mobile or stationary training units**, subject to the conditions in subsection (b) and the following conditions:

(A) The local fire department and health department must be notified at least twenty-four (24) hours in advance of the date, time, and location of the burning.

(B) Except as provided in clause (C), daily fuel volume amounts burned are limited to one (1) of the following:

- (i) Fourteen (14) gallons of clean petroleum products.
- (ii) Two hundred twelve (212) gallons of propane.
- (iii) Twenty-nine thousand seven hundred (29,700) cubic feet of natural gas or methane.

(C) A combination of the fuels listed in clause (B) may be burned each day. The amount of each fuel that can be burned each day shall be determined as follows:

- (i) The volume of each fuel to be burned each day shall be calculated as a percentage of the maximum volume allowed in clause (B) for that fuel.
- (ii) The sum of the percentages for each fuel burned each day shall not exceed one hundred percent (100%).

(D) All burning of clean petroleum products shall take place in a noncombustible container or enclosure that has enclosed sides and a bottom.

(E) All burning shall be conducted in such a manner so as to prevent any possibility of soil contamination or uncontrolled spread of the fire.

(F) Only one (1) fire may be allowed to burn at a time.

(9) Burning of two (2) single family, nondemolished structures per calendar year by municipal fire departments for purposes of live fire training, subject to the conditions in subsection (b) and the following conditions:

(A) Written notification must be submitted to the Indiana department of environmental management, office of air quality, at least thirty (30) days prior to the burning with the date, time, and location of the burning included. A copy of the notification shall be made available at the burning site to state and local officials upon request.

(B) The fire department conducting the fire training must provide written notification to each interested party or person owning or renting property within five hundred (500) feet of the structure to be burned at least fifteen (15) days prior to the training activity or publish a notice of intent to burn in the local newspaper at least fifteen (15) days prior to the training activity.

- (C) The fire department must notify the county health department and county sheriff's department at least twenty-four (24) hours prior to the burning and include the date, time, and location of the burning.
- (D) All asbestos-containing materials, asphalt roofing including backer paper, and vinyl siding including Styrofoam backer insulation must be removed before the intentional burning of any structure. These materials may not be burned and must be handled or disposed of in accordance with the applicable rules of the solid waste management board at [329 IAC 10](#) and [329 IAC 11](#).
- (E) Mercury containing equipment and fluorescent bulbs must be removed from the house and properly recycled or disposed of in accordance with the applicable rules of the solid waste management board at [329 IAC 10](#).
- (F) No burning shall take place within one hundred (100) feet of a structure or power line or three hundred (300) feet of a frequently traveled road, fuel storage area, or pipeline.
- (G) All burning must comply with other federal, state, or local laws, regulations, or ordinances, including 40 CFR 61, Subpart M* (National Emissions Standards for Asbestos).
- (10) Ceremonial burning of United States flags, subject to the conditions in subsection (b) and the following conditions:
- (A) Any person conducting ceremonial burning of United States flags shall notify the local fire department and health department at least twenty-four (24) hours prior to any burning if the size of the pile being burned is more than one hundred twenty-five (125) cubic feet and include the date, time, and location of the burning.
- (B) Fires shall:
- (i) not be ignited more than two (2) hours before the activity is to take place; and
- (ii) be extinguished upon conclusion of the activity.
- (C) The pile to be burned shall be less than or equal to one thousand (1,000) cubic feet, and only one (1) pile may be burned at a time.
- (D) Fires shall not be located within five hundred (500) feet of any fuel storage area or pipeline.

*This document is incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

(Air Pollution Control Board; [326 IAC 4-1-3](#); filed Mar 10, 1988, 1:20 p.m.: 11 IR 2419; filed May 24, 1995, 10:00 a.m.: 18 IR 2408; filed Jul 30, 1996, 2:00 p.m.: 19 IR 3341; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477; filed Mar 21, 2007, 2:48 p.m.: [20070418-IR-326050268FRA](#); filed Sep 28, 2011, 10:58 a.m.: [20111026-IR-326090362FRA](#))

SECTION 2. [326 IAC 4-1-4](#) IS AMENDED TO READ AS FOLLOWS:

[326 IAC 4-1-4](#) Emergency burning

Authority: [IC 13-15-2-1](#); [IC 13-17-3-4](#)

Affected: [IC 13-12](#); [IC 13-17-9](#)

Sec. 4. Emergency burning with prior oral approval of the commissioner or the commissioner's designated agent may be authorized for the following:

- (1) spilled or escaping liquid or gaseous petroleum products when all reasonable efforts to recover the spilled material have been made and failure to burn would result in an imminent fire or health hazard or air or water pollution problem; or
- (2) clean wood waste, vegetation, or deceased animals resulting from a natural disaster where failure to burn would result in an imminent health, or safety, or **environmental** hazard.

The commissioner or the commissioner's designated agent shall issue a written approval within seven (7) days of the oral approval. The written approval shall contain any conditions on emergency burning that the commissioner established in the oral approval.

(Air Pollution Control Board; [326 IAC 4-1-4](#); filed Mar 10, 1988, 1:20 p.m.: 11 IR 2420; filed Jul 30, 1996, 2:00 p.m.: 19 IR 3343; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477; filed Sep 28, 2011, 10:58 a.m.: [20111026-IR-326090362FRA](#))

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